

ADOBE OIL AND GAS CORP.

IBLA 82-347

Decided June 7, 1983

Appeal from decisions of the Montana State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease applications M 48614 and M 48648.

Affirmed.

1. Oil and Gas Leases: Applications: Filing -- Oil and Gas Leases: First-Qualified Applicant -- Oil and Gas Leases: Noncompetitive Leases

An oil and gas lease application filed in the name of a corporation in a simultaneous filing is properly rejected where it is not accompanied by a list of corporate officers as required by 43 CFR 3102.2-5(a) (1981) or by a reference to a BLM serial number indicating where such information can be found. Such an omission cannot be cured after the drawing.

2. Administrative Authority: Estoppel -- Estoppel -- Federal Employees and Officers: Authority to Bind Government

The general rule is that reliance upon erroneous or incomplete information or opinions provided by any officer, agent, or employee of the Department cannot operate to vest any right not authorized by law.

3. Notice: Generally -- Regulations: Generally -- Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Maurice T. Reidy, Esq., Denver, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Adobe Oil and Gas Corporation appeals from decisions of the Montana State Office, Bureau of Land Management (BLM), dated December 4, 1981, rejecting simultaneous oil and gas lease applications M 48614 and M 48648, which received first priority for parcels MT 24 and MT 58 respectively, in the July 1980 filing. The applications referenced evidence of qualifications filed under NM-0558400. BLM rejected the applications because the corporation's qualifications were not complete at the time the offer was filed, in that a complete list of officers was not on file as required by 43 CFR 3102.2-5(a)(3) (1981). ^{1/}

On appeal appellant states that it became aware of the necessity of amending its statements of corporate qualifications pursuant to the change in the regulations published on May 23, 1980, in the Federal Register. Appellant asserts that it contacted the New Mexico State Office (NMSO), BLM, with regard to the new requirements for corporate qualifications statements and received in return two forms. One form (NMSO-3100-49 (January 1979)) was titled "Statement of Corporate Qualifications." The other form was titled "Statement of Stockholder" (form NMSO-3100-50 (January 1979)). Appellant asserts and the record reflects that the completed forms were transmitted to the NMSO by letter dated July 17, 1980, and acknowledged as satisfactory and acceptable by NMSO by letter dated July 23, 1980, which further indicated that they had been filed for reference under serial No. NM-0558400.

Essentially, appellant argues that it acted in reliance upon the information provided by the NMSO in that it completed and returned forms provided by that office prior to the expiration of the filing period for the July 1980 drawing and that the Montana State Office should be bound by the decision of the NMSO accepting the evidence of qualifications filed.

Form NMSO-3100-49 (January 1979) and appellant's responses read as follows in part:

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

STATEMENT OF CORPORATE QUALIFICATIONS

1. Name and address of Corporation:

^{1/} This regulation, among others, was repealed effective Feb. 26, 1982, by publication of revised regulations effectively eliminating the requirement for filing the names of corporate officers. 47 FR 8544 (Feb. 26, 1982). The existence of the conflicting applications of the second and third priority applicants filed while the former regulation was in effect, coupled with the statutory obligation to issue the lease to the first qualified applicant, precludes application of the revised regulations to this case.

ADOBE OIL & GAS CORPORATION
1100 Western United Life Building
Midland, Texas 79701

2. The State in which it is incorporated: Delaware
3. Is the Corporation authorized to hold oil and gas leases? Yes
4. The names and titles of the officer(s) authorized to act on behalf of the Corporation in such matters.

B. J. Pevehouse - President
Loyd Whitley - Sr.
Vice President
M. D. Rogers - Sr. Vice President
H. R. Holcomb - Vice President

The applicable regulation, 43 CFR 3102.2-5(a) (published in the Federal Register on May 23, 1980, 45 FR 35162, effective June 16, 1980) reads as follows:

(a) A corporation which seeks to lease shall submit with its offer, or application if leasing is in accordance with Subpart 3112 of this title, a statement showing:

- (1) The State in which it is incorporated;
- (2) That it is authorized to hold oil and gas leases;
- (3) A complete list of corporate officers, identifying those authorized to act on behalf of the corporation in matters relating to Federal oil and gas leasing;
- (4) The percentage of voting stock and of all the stock owned by aliens; and
- (5) The names and addresses of the stockholders holding more than 10 percent of the stock of the corporation. [Emphasis added.]

[1] An oil and gas lease application filed on behalf of a corporation must be accompanied by the information specified by 43 CFR 3102.2-5, including a complete list of corporate officers, identifying those authorized to act for the corporation in Federal oil and gas leasing matters. As has been noted, the purpose of this regulation is to aid in the enforcement of the prohibition against multiple filings. See Adobe Oil & Gas Corp., 63 IBLA 106, 109 (1982). As we noted in Adobe, the purpose of the disclosure "is to determine in what other applications for a particular parcel the corporation may have an interest, by virtue of other filings made by corporate officers." Id.

The regulations permit corporate applicants to file the required information for reference and to refer to assigned serial numbers in lieu of refileing the information, where the evidence of qualifications has been accepted and where the information on file is current. 43 CFR 3102.2-1(c) (1981). The information filed for reference in this case in July 1980 did not constitute the evidence of qualifications required to be filed by the applicable regulation. An oil and gas lease application that is not

accompanied by either the required information or a reference by serial number to the BLM file in which that information can be found is defective and subject to rejection. Hickory Creek Oil Co., 63 IBLA 313 (1982); Samedan Oil Corp., 62 IBLA 228 (1982); Trans-Texas Energy, Inc., 56 IBLA 295 (1981). NMSO did not receive appellant's complete list of corporate officers until January 22, 1981.

[2] With regard to appellant's attempt to invoke estoppel, assuming, *arguendo*, that the facts are as stated by appellant, such facts entitled it to no relief on appeal. This Board has stated on numerous occasions that reliance upon erroneous information or opinion of any officer, agent, or employee cannot operate to vest any right not authorized by law. 43 CFR 1810.3(c); Vincent M. D'Amico, 55 IBLA 116 (1981); John Plutt, Jr., 53 IBLA 313, 316 (1981).

Appellants have not alleged facts which would entitle them to the extraordinary remedy of estoppel. In United States v. Georgia-Pacific Co., 421 F.2d 92 (9th Cir. 1970), the Ninth Circuit set forth the elements of estoppel:

- (1) The party to be estopped must know the facts;
- (2) he must intend that his conduct shall be acted on or must so act that the party asserting the estoppel has a right to believe it is so intended;
- (3) the latter must be ignorant of the true facts;
- (4) he must rely on the former's conduct to his detriment.

Appellant cannot properly allege that it was ignorant of the true facts. In United States v. Georgia-Pacific, *supra*, the court noted that Georgia-Pacific had reason to rely on the validity of Public Land Order (PLO) No. 1600 because "[t]here was no explicit statute, ruling, order or case authority to give Georgia-Pacific any indication whatsoever that PLO 1600 might have been issued pursuant to an improper delegation of authority * * *." *Id.* at 98.

In contradistinction to the Georgia-Pacific case, appellant had the clear wording of the applicable regulation, 43 CFR 3102.2-5(a) ("A complete list of corporate officers * * *") which was published in the Federal Register on May 23, 1980, 45 FR 35162, to inform it of the required evidence of qualifications.

[3] All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); see John Plutt, Jr., *supra* at 318-19 (Burski, A.J. concurring). Such regulations have the force and effect of law and are binding on the Department. McKay v. Wahlenmaier, 226 F.2d 35, 43 (D.C. Cir. 1955). In addition, in this case appellant states that it had actual knowledge of the regulation change, and that it made its July 1980 filings with the NMSO pursuant to that regulation change. Thus, appellant may not claim ignorance of the true facts.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

